

## **REMARKS**

Applicant acknowledges, with appreciation, the indication that claims 33 and 34 contain allowable subject matter. Claims 1-3, 5, 6, 21-34 are now pending, with claims 1 and 3 being the only independent claims. Independent claims 1 and 3 have been amended to clarify the claimed invention. No new matter has been added. Reconsideration of the above-identified application, as herein amended and in view of the following remarks, is respectfully requested.

Claims 1-3, 5 and 21-34 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,884,277 (“*Khosla*”) in view of Examiner Official Notice, and further in view U.S. Pub. No. 2002/0161689 (“*Segal*”). Claim 6 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Khosla* in view of Examiner Official Notice and *Segal*, and further in view of U.S. Pub. No. 2008/0120186 (“*Jokinen*”). For the following reasons, reconsideration and withdrawal of these rejections are respectfully requested.

Independent claim 1 has been amended to recite, *inter alia*, the step of “determining an identity of the called terminating party based on a query, which occurs at the processor, of a directory database that stores information associating the routing information with the identity of the called terminating party”. Independent claim 3 has been correspondingly amended. The combination of the cited art fails to teach or suggest *at least* this expressly recited limitation of now-amended independent claims 1 and 3.

*Khosla* discloses a “data processing method which begins by receiving purchaser login data from the public network in a processing system, where the login data positively identifies the purchaser. The system provides through the public network to the identified purchaser a gateway to tools for selecting goods or services for purchase. The purchaser selects goods and services using these tools and provides payment information through the public network for the selected goods or services. The processing system verifies payment for the goods or services. The processing system verifies payment for the goods or services. Next, the processing system generates coupon data, such

as a combination of a clear text transcript of the transaction and an encrypted transcript of the transaction” (see col. 1, line 65 to col. 2, line 10 of *Khosla*).

*Segal*, on the other hand, discloses an automated ticket selling system wherein a buyer may submit a listing containing a description of an airline ticket to be purchased and a maximum price at which the buyer is willing to purchase the airline ticket. The listing may contain a point of departure, a destination, desired flight times, number of travelers, and/or a specification of acceptable airlines. A seller, i.e. an airline, also submits bids containing “originating and destination city-pairs, a listing of available flights, a floor price of a city-pair, and a range of acceptable prices for one or more bidding rounds. If only one seller submits a bid, and the bid is less than or equal to the price submitted by the buyer, that seller is selected to consummate the transaction. If there are multiple eligible sellers, the sale is awarded to a seller after a predetermined number of rounds of bidding, applying predefined system rules” (see Abstract). A relational database, such as a listing database 300, stores the aforementioned data for the buyers (see paragraphs [0038] through [0045] of *Segal*). A bidding database stores bidding data submitted by the airlines (i.e. sellers) (see paragraphs [0047] to [0052] of *Segal*).

The Examiner takes Official Notice that *Khosla* teaches the use of the Internet by a user to place his/her order through the network, that the use of telephonic communication in lieu of the Internet would have been obvious to an ordinary artisan, and that applying the *Khosla* teachings in a public switched network environment in which a purchaser can utilize a telephone to place his/her order or reservation instead of using the Internet as a method of communication to conduct his/her online transaction is also obvious.

The Examiner further asserts that *Segal* teaches the use of a relational database and that it would have been obvious to incorporate such a database for storing and correlating customers and business listings into the combination of *Khosla* and Examiner’s Official Notice to provide speed

and efficiency when conducting and completing a transaction between an originating party and a destination party (any business or call center).

Applicant disputes the Examiner's proffered combination of the cited references. That is, the combination of *Khosla*, the Official Notice and *Segal* fails to achieve the expressly recited subject matter of now-amended independent claim 1, and even if it does, the analysis constitutes an impermissible hindsight reconstruction based on applicant's disclosure.

Applicant's claimed invention solves the problem of targeting marketing materials to potential purchasers who use telephones (via PSTN or VoIP) to contact a company such as DELL COMPUTER, by using call routing information relating to the called terminating party (i.e., DELL or its competitor such as COMPAQ COMPUTER). In accordance with the claimed invention, a relational database associating the call routing information with the identity of the called terminating party may be employed to target relevant materials to the originating party (see pg. 5, lines 4-13 of the instant specification). Indeed, now-amended independent claim 1 requires, *inter alia*, the step of "determining an identity of the called terminating party based on a query, which occurs at the processor, of a directory database that stores information associating the routing information with the identity of the called terminating party".

*Khosla* discloses the issuance of coupons to online purchasers but fails to teach or suggest the issuance of coupons based on the identity of the called terminating party. In fact, *Khosla* fails to teach or suggest anything whatsoever of a called terminating party for receiving a call from an originating party. Even assuming, *arguendo*, that the coupon issuing system of *Khosla* were construed as a called terminating party, such a construction will merely result in an inoperative system because the coupon issuing system of *Khosla* fails to issue coupons based on its own identity. There is no called terminating party in the *Khosla* system, because *Khosla* is directed to solving a different problem, i.e., "issuing coupons redeemable for goods or services across the public network to purchasers at non-secure terminals" (see col. 5, lines 41-44 of *Khosla*).

*Segal* likewise fails to teach or suggest the step of “determining an identity of the called terminating party based on a query, which occurs at the processor, of a directory database that stores information associating the routing information with the identity of the called terminating party”, as recited in now-amended independent claim 1. *Segal* teaches a relational database 300 for customers of airlines that includes a listing identifier field 302, a user identification field 304, a financial account identifier field 306, an origin city field 308, a destination field 310, a departure date field 31, a return date field 314, a non-stop designation field 316, a number of travelers field 318, a ticket class field 320, and a purchase price offered field 322 (see paragraph [0039] of *Segal*). Each of these database fields, however, fails to relate the call routing information to the called terminating party. In contrast, independent claim 1 recites that the identity of the called terminating party forms the basis of targeting marketing materials that are provided to the call originating party.

The combination of *Khosla* with the Examiner’s Official Notice and *Segal*’s automated ticket selling system thus fails to achieve the expressly recited subject matter of now-amended independent claim 1, including, at least the step of “determining an identity of the called terminating party based on a query, which occurs at the processor, of a directory database that stores information associating the call routing information with the identity of the called terminating party, and the step of determining at the processor targeted marketing material based on the identity of the called terminating party.

*Jokinen* discloses a method of sending advertising messages to mobile terminals based on profiles of users of the mobile terminals stored in a server. There is no requirement in *Jokinen* for the mobile terminals to be in active communication with each other. Rather, the mobile terminals must be powered on and registered with a mobile network to enable selection by and for receiving advertising messages from a server (see Figures 3A and 3B and paragraph [0037] of *Jokinen*). *Jokinen* also fails to teach or suggest the expressly recited subject matter of now-amended independent claim 1, i.e., *at least* the step of “determining an identity of the called terminating

party based on a query, which occurs at the processor, of a directory database that stores information associating the call routing information with the identity of the called terminating party, and the step of determining at a processor targeted marketing material based on the identity of the called terminating party”. The combination of *Khosla*, the Official Notice and *Segal* and *Jokinen* thus fails to achieve the method of independent claim 1, because *Jokinen* fails to provide what *Khosla* and *Segal* lack. Applicants accordingly assert that independent claim 1 is therefore patentably distinct over the combination of *Khosla*, the Official Notice, *Segal* and *Jokinen*.

Independent claim 3 is the system in which the method of independent method claim 1 is implemented. Accordingly, independent system claim 3 is patentable over *Khosla*, the Official Notice, *Segal* and *Jokinen* for the reasons discussed above with respect to independent method claim 1.

In view of the foregoing, reconsideration and withdrawal of all the rejections under 35 U.S.C. §103(a) are in order, and a notice to that effect is requested.

In view of the patentability of independent claims 1 and 3, dependent claims 2, 5, 6 and 21-34 are also patentable over the prior art for the reasons set forth above, as well as for the additional recitations contained therein.

Based on the foregoing amendments and remarks, this application should be in condition for allowance. Early passage of this case to issue is respectfully requested.

Respectfully submitted,  
COHEN PONTANI LIEBERMAN & PAVANE LLP

By /Alfred W. Froebrich/  
Alfred W. Froebrich  
Reg. No. 38,887  
551 Fifth Avenue, Suite 1210  
New York, New York 10176  
(212) 687-2770

Dated: August 4, 2009